

prior art reference (or references when combined) must teach or suggest all of the claim limitations. In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. §2143.

Under these criteria, the final Office Action fails to establish a *prima facie* case of obviousness of claims 1-3, 5-13 and 15-20 based on the cited prior art.

Claim 1, which is directed to a method of retrieving a complete copy of data from a plurality of stored copies of the data, includes "selecting one of the copies from the plurality of stored copies," "identifying defective storage locations in the selected copy," "locating replacement storage locations from the plurality of stored copies other than the selected copy" and "merging storage locations from the selected copy with replacement storage locations" to define the complete copy.

In response to the Applicants' arguments that the cited references do not teach or suggest the claimed invention, the Office Action (on page 3) states that Robinson's data processing system has the capability of replacing a data block via multiple copies of replacement blocks. Further, at the top of page 4 of the Office Action, it is stated that Robinson determines a bad data block, and replaces the bad data block with a plurality of copies of replacement blocks. These statements are incorrect. In Robinson, the only language regarding multiple copies (used in connection with replacement blocks) relates to storing multiple copies of the replacement block's header in the bad block's data field. Specifically, Col. 2, lines 59-64 of Robinson state that:

The location of the replacement block is arbitrary. To determine its address, multiple copies of the replacement block's header value are stored in the data field of the bad block. The copies are read and compared statistically to come up with the address so indicated. (Emphasis Added).

In any event, the above-noted statements included in the Office Action, and the above language of Robinson (regarding determining

an address of a replacement block), are clearly unrelated to any of the above-listed elements of claim 1, which relate, in general, to utilizing replacement storage locations in connection with retrieving a complete copy of information from multiple copies of information.

Further, as noted in the Response to the first Office Action, which was filed on September 24, 2004, Rubinson clearly teaches that replacement sectors are not used when multiple copies of information are employed. Specifically, col. 3, line 66 through col. 4, line 5 of Rubinson states that:

The contents of certain portions of the disk which are not protected by replacement are protected by virtue of being written in multiple locations, to store multiple copies of the same information. If a sufficient number of copies, or portions of copies, are recorded unimpaired, the recorded information can be retrieved despite the corruption of one or more copies.
(Emphasis Added).

The above language of Rubinson is in contrast with the above-noted limitations of claim 1, which, as mentioned above, relate, in general, to utilizing replacement storage locations in connection with retrieving a complete copy of information from multiple copies of information. In fact, by stating that "the contents of certain portions of the disk which are not protected by replacement are protected by virtue of being written in multiple locations," Rubinson teaches away from the subject matter of claim 1.

Shin teaches a method of improving data transmission of a hard disk drive. The method involves accessing all normal sectors of a track before accessing a re-allocation sector, which has replaced a defective sector. (Col. 2, lines 61-64). Shin teaches or suggests nothing about "merging storage locations" in connection with "defining a complete copy" from multiple copies of information. Thus, Shin does not overcome the deficiencies of Rubinson.

Since all the elements of the present invention as claimed by claim 1 are not taught by the cited prior art, the Examiner has failed to support any *prima facie* conclusion of obviousness (by not satisfying the third criterion for a *prima facie* conclusion of obviousness set forth in Vaeck) with regard to claim 1. Furthermore, the Examiner provided no evidentiary basis for modifying the cited references, or to combine the teachings of the references, to arrive at the present invention as claimed by claim 1 (first criterion set forth in Vaeck). In addition, for reasons provided above, the cited reference(s) teach away from the subject matter of claim 1. Thus, it is believed that independent claim 1 is patentably distinct and non-obvious over the cited prior art.

Independent claims 11 and 20 have elements similar to that of independent claim 1. Thus, for the same reasons as independent claim 1, Applicants submit that independent claims 11 and 20 are allowable as well. Moreover, Applicants respectfully submit that dependent claims are also allowable by virtue of their dependency, either directly or indirectly from the allowable independent claims. Further, the dependent claims set forth numerous elements not shown or suggested in the cited references.

In view of the foregoing, and for reasons included in the Amendment filed on September 24, 2004, Applicants respectfully request reconsideration and allowance of claims 1-20. Favorable action upon all claims is solicited.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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